

MO APP.

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COMPLETE TITLE OF CASE:

STATE OF MISSOURI,

Respondent

v.

LARRY DONNELL SIMMS.

Appellant

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DOCKET NUMBER WD78467

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

DATE: October 11, 2016

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Appeal From:

Circuit Court of Jackson County, MO  
The Honorable Robert Michael Schieber, Judge

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Appellate Judges:

Division One  
Anthony Rex Gabbert, P.J., Thomas H. Newton, and Alok Ahuja,

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Attorneys:

Stephen Bradley Willibey, Kansas City, MO,  
Counsel for Appellant

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Attorneys:

Rachel Sara Flaster, Jefferson City, MO  
Counsel for Respondent

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**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**STATE OF MISSOURI, Respondent, v.  
LARRY DONNELL SIMMS, Appellant**

**WD78467**

**Jackson County**

Before Division One Judges: Anthony Rex Gabbert, P.J., Thomas H. Newton, and Alok Ahuja, JJ.

Larry Donnell Simms appeals the circuit court's judgment finding him guilty of one count of domestic assault in the first degree, armed criminal action, unlawful use of a weapon, domestic assault in the second degree and assault in the third degree. Simms raises two points on appeal. First, Simms argues that the circuit court failed to ascertain his waiver of jury trial on the record in open court as required by both the Missouri and the United States Constitutions. Next, Simms argues that the trial court exceeded its jurisdiction and violated his due process right to be notified of his charges by finding him guilty of the class A felonies of domestic assault in the first degree and armed criminal action.

**AFFIRMED**

Division One holds: The trial court did not err in finding that Simms' waiver was knowingly, voluntarily and intelligently made. The trial court did not err in sentencing Simms to the class A felony because the State gave Simms adequate notice and the supporting evidence was sufficient to support a finding of guilt.

Opinion by Anthony Rex Gabbert, Judge

Date: October 11, 2016

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